

SENATE BILL REPORT

ESB 5730

As of January 17, 2012

Title: An act relating to usage-based automobile insurance and exempting certain usage-based insurance information from public inspection.

Brief Description: Concerning usage-based automobile insurance.

Sponsors: Senator Rockefeller.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 2/15/11, 2/16/11 [DPS-WM, w/oRec], 1/11/12.

Passed Senate: 3/04/11, 46-3.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: That Substitute Senate Bill No. 5730 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Benton, Ranking Minority Member; Haugen and Keiser.

Minority Report: That it be referred without recommendation.

Signed by Senators Fain and Litzow.

Staff: Edward Redmond (786-7471)

Background: The Insurance Commissioner (Commissioner) regulates insurance in Washington, including motor vehicle liability insurance. This oversight includes regulation of rates, forms, financial conditions, claims practices, and other issues related to the business of insurance.

All drivers of vehicles registered in Washington State must be insured under an insurance liability policy, a liability bond, a certificate of deposit, or else be self-insured. In determining rates, motor vehicle insurance companies must give consideration to the impacts of safety and anti-theft devices. Insurance companies are required to file their rate plans with the Commissioner, and these rate plans must not be excessive, inadequate, or unfairly discriminatory.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Presently, no provisions exist in the motor vehicle liability code specifically addressing usage based liability insurance products.

Summary of Bill: The bill as referred to committee not considered.

Summary of Bill (Proposed Second Substitute): The Legislature encourages insurance companies to offer usage-based insurance policies by eliminating existing regulatory barriers to the offering of such products. The Legislature finds that such usage-based policies will help to reduce costs of fuel and vehicle maintenance, reduce accidents, and decrease driving-related pollution and congestion. The provisions regarding the filing of insurance rates open to public inspection are amended. Information associated with a filing for a usage-based auto insurance product that constitutes a trade secret is exempt from public inspection.

Appropriation: None.

Fiscal Note: Requested on January, 10, 2012.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

Testimony From 2011 Regular Session on Original Bill.

PRO: This bill would invoke the power of the consumer in the marketplace by creating incentives for the person who is buying auto insurance to find the most cost efficient insurance possible. Mileage or usage based insurance offers the consumer a clear choice to drive within a set limit of miles in order to get a better rate. This type of insurance will save money, save gas, and will be better for the environment. Insurance based on miles driven will also improve public safety and will reduce congestion. The Commissioner supports the concept of mileage based insurance; there are some issues in the bill, however, that have not been fully worked out. The bill seems to create a mileage-based policy that is based on the number of miles instead of a time basis. Current policies based on a time duration provide notice to consumers as to how long the insurance coverage will last. A miles based policy may be challenging to predict when the policy will terminate. The discount provided should be based on actuarial findings that the lower mileage driven resulted in fewer claims or accidents. A demonstration project is already being done by King County; the project is funded by federal and state grants. The Commissioner would like to await the outcome of that project before or in lieu of commencing a separate state demonstration project.

CON: The bill speaks to a substantial discount to insurers in lieu of offering a mileage-based product. That is a very subjective term; there is concern how the Commissioner would regulate this and how it would apply to all insurers uniformly. The bill includes all vehicles including specialty vehicles, which probably is not the intent of the bill, but that would be the outcome based on the language in the bill. A number of insurance companies have already launched pilot programs and initiatives for pay as you drive and mileage based programs throughout the country. Nothing in Washington's statutes preclude these types of products from being introduced and available here. Many companies have developed proprietary products for mileage based programs. The bill, however does not offer any protection for

such proprietary information. Driver privacy should be safeguarded; insurers should not be allowed to see where and when a person drives. People should not have to choose between their privacy and cost effective insurance.

OTHER: The bill is a good idea. Insurance companies have such products available in other states. It is currently not available in Washington because it would have to be filed with the Commissioner and be subject to public inspection including inspection from competitors. Insurance companies are not willing to bring the product to Washington without proper trade secret protection.

Testimony From 2012 Regular Session on Proposed Second Substitute.

PRO: This is a simple bill. The entire purpose of the bill is to protect proprietary information from being disclosed to competitors. This is the simplest and least controversial version of the bill that has circulated. In regards to public disclosure issues, that should be left to the Thurston County Court to decide; the Commissioner should not have to spend any legal time on this issue. The risk that arises from listing out what should or should not be exempt from public disclosure is that such language may be sufficient to protect one company's product today, but may be lacking in scope to protect another product that has yet to be developed.

OTHER: The Commissioner is concerned with the trade secret provision because it can generate great legal expenses to the state if the Commissioner misinterprets what is or is not a trade secret. The Commissioner is usually an integral part in such public disclosure disputes. Trade secret as used in this bill is a factual determination, which can be undone by the court. The bill should clearly define what can be kept confidential and what is subject to public disclosure in order to avoid any subjective, and potentially costly, misinterpretation by the Commissioner.

Persons Testifying:

Persons Testifying from 2011 Regular Session on Original Bill.

PRO: Senator Rockefeller, prime sponsor; Carrie Doluick, Transportation Choices Coalition; Drew Bouton, Office of the Insurance Commissioner (OIC).

CON: Jessica Harbin, Farmers Group Inc.; Mel Sorenson, Property Casualty Insurance Association of America, Allstate Insurance Company, American Family Insurance Company; Jean Leonard, Washington Insurers, State Farm Insurance Company; Shankar Narayan, ACLU.

OTHER: Carrie Tellefson, Progressive Insurance; Gary Strannigan, SAFECO, Liberty Mutual Insurance Group.

Persons Testifying from 2011 Regular Session on Proposed Second Substitute.

PRO: Carrie Tellefson, Progressive Insurance; Mel Sorenson, Allstate Insurance Company.

OTHER: Drew Bouton, Marta DeLion, OIC.